



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title):

WAC 458-16-110 “Applications – Who must file, initial applications, annual declarations, filing fees, penalties and refunds”;
WAC 458-16-120 “Appeals and notice of determination”;
WAC 458-16-130 “Change in taxable status of nongovernmental real property”;
WAC 458-16-150 “Cessation of use – Taxes collectible for prior years”; and
WAC 458-16-165 “Conditions under which nonprofit organizations, associations, or corporations may obtain a property tax exemption.”

Date last reviewed:

WAC 458-16-110 = 1997
WAC 458-16-120 = 1997
WAC 458-16-130 = 1999
WAC 458-16-150 = 1999
WAC 458-16-165 = 1997

Current Reviewer: **Kim M. Qually**

Date current review completed: **October 16, 2001**

Is this document being reviewed at this time because of a taxpayer or association request?

YES ☐ **NO** ☒

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s):

WAC 458-16-110 explains how a property tax or leasehold excise tax exemption is obtained and retained. It also describes how an exemption determination may be appealed to the Board of Tax Appeals (BTA).

WAC 458-16-120 sets out the procedures involved in appealing a DOR determination to the BTA.

WAC 458-16-130 describes how and why exempt property may lose its exempt status, and what occurs when exempt property becomes taxable.

WAC 458-16-150 explains the procedure followed the property loses its tax-exempt status and is placed back on the tax rolls. It also describes in depth when and how



back taxes and interest are collected when property loses its exempt status, as well as the circumstances under which no back taxes are collected.

WAC 458-16-165 informs the entities listed in RCW 84.36.805 about the conditions that must be satisfied in order to receive or retain a property tax or leasehold excise tax exemption. These conditions are in addition to the statutory requirements listed in the individual statutes that authorize an exemption.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs:

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
X		Are there any interpretive statements not identified in the previous review of this rule that should be incorporated
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

WAC 458-16-110 is authorized by RCW 84.36.815, 825, 830, and 840. RCW 84.36.815 was amended by laws of 1998, chapter 311, section 27, and by laws of 2001, chapter 126, section 4. RCW 84.36.825 was amended by laws of 1998, chapter 311, section 28. RCW 84.36.830 was amended by laws of 1998, chapter 310, section 1. The rule needs to be revised to incorporate changes to the underlying statutes. The revised rule should also incorporate information contained in PTB 91-2 regarding “Cemeteries or Burial Grounds – Annual Application for Exemption” and the bulletin then cancelled. This bulletin identifies exempt properties that need not be included in an annual application for exemption to the Department.

WAC 458-16-120 is authorized by RCW 84.36.830 and 850. RCW 84.36.830 was amended by laws of 1998, chapter 310, section 1. The rule needs to incorporate the statutory changes.



WAC 458-16-130 and WAC 458-16-150 are authorized by the provisions of RCW 84.36.810 and RCW 84.40.350 through 84.40.390. RCW 84.36.810 was amended by laws of 1997, chapter 143, section 4, and chapter 156, section 9; by laws of 1998, chapter 202, section 4, and chapter 311, section 4; by laws of 1999, chapter 139, section 4, and chapter 203, section 3; and finally by laws of 2001, chapter 126, section 3. The rules need to be changed to reflect these statutory changes. The revised version of WAC 458-16-130 should also incorporate PTB 91-5 regarding “Taxation of Real Property to taxable and property taxable to exempt” and the bulletin then cancelled.

WAC 458-16-165 is authorized primarily by the provisions of RCW 84.36.805. This statute was amended by laws of 1997, chapter 143, section 3, and chapter 156, section 8; by laws of 1998, chapter 139, section 3, and chapter 203, section 2; by laws of 1999, chapter 184, section 2, chapter 202, section 3, and chapter 311, section 25; by laws of 2001, 1st Special Session, chapter 7, section 2. The rule needs to be updated to incorporate all statutory changes.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

WAC 458-16-110 - information regarding filing fees, penalties, and refunds, which was previously set forth in WAC 458-16-111, should be incorporated into this rule;

WAC 458-16-120 – all information about determination should be removed from this rule and placed in WAC 458-16-110. The focus of WAC 458-16-120 should be how an aggrieved party may appeal to the BTA. It should outline the appeals process and cross reference BTA statutes and rules;

The format of WAC 458-16-165 needs revision because the presumption in RCW 84.36.805 is no longer the same. A list of entities to which the rule doesn’t apply should also be listed in detail. The examples also need to be updated.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s).

Statute(s) Implemented:

RCW 84.36.805 “ Conditions for obtaining exemptions by nonprofit organizations, associations, or corporations;”

RCW 84.36.810 “ Cessation of use under which exemption granted – Collection of Taxes;”

RCW 84.36.812 “Additional tax payable at time of sale – Appeal of assessed vales;;

RCW 84.36.813 “Change in use – Duty to notify county assessor – Examination – Recommendation;”

RCW 84.36.815 “Initial application, renewal declaration for exemption – Affidavit certifying exempt status – Exemption effective fore following year;



RCW 84.36.825 “ Application, declaration fee – Waiver authorized – Late filing penalty;”

RCW 84.36.830 “Review of applications for exemption – Procedure – Approval of denial – Notice;” and

RCW 84.36.840 “Statements – Reports – Information – Filing – Requirements;”

RCW 84.36.850 “Review – Appeals.”



Interpretive statements (e.g., ETAs and PTAs):

PTB 91-2 regarding “Cemeteries or Burial Grounds – Annual Application for Exemption” and

PTB 91-5 : Taxation of Real Property to taxable and property taxable to exempt”

Court Decisions: **None**

Board of Tax Appeals Decisions (BTAs):

The Popular Assembly of Taliaferro S Sovereign Religious Society v. Kittitas County Assessor, Docket No. 53400 (1999) : can assessor determine whether an entity is entitled to a property tax exemption;

Day Star Christian Academy v. DOR, Dockets Nos. 53597 – 53598 (1999) - exemption as school;

Knights of Pythias Care Center v. DOR, Dockets No. 53723 & 53724 (1999) = deadline to submit all application information;

Central Washington Range Conservancy, Yakima County v. DOR, Docket No. 95-2 (1997) = whether the Range is exempt from property tax under RCW 84.36 when the Range, a federal and state nonprofit organization, operates on land leased from Yakima County for \$1 per year and receives state moneys pursuant to RCW 77.12.720 to do so;

Washington State Apple Blossom Festival Association v. DOR, Docket No. 49268 (1997) = whether Association's office and storage facility qualifies for a property tax exemption under RCW 84.36.030 and RCW 84.36.805;

Jubilee Fellowship v. DOR, Docket No. 98-32 (1998) = whether the nine buildings in question constitute "housing of religious faculty" for purposes of RCW 84.36.050's property tax exemption;

Yakima Valley Memorial Hospital d/b/a Yakima Valley Home Health And Hospice v. DOR, Docket No. 49902 (1997) = tax-exempt status of real property which is leased to Valley Memorial and which serves as the administrative offices of the Home Health program;

Christian Faith Center, Seattle v. DOR, Docket No. 48729 (1997) = the exempt status of the building during the period of construction;

Faith Baptist Church – Spokane v. DOR, Docket No. 55710 (2000) = whether a religious-based K-12 school is exempt from property taxation under RCW 84.36.050 when it is not approved by the Washington State Superintendent of Public Instruction (SPI), even though its students' credits are accepted without examination by other K-12 schools to which they might transfer;

Dalkena Community Church – Newport v. DOR, Dockets Nos. 55073 - 55079 (2000) = The Dalkena Community Church Camp operates on contiguous parcels donated to the Church in 1993. The Donors withheld one parcel from the donation until their demise. May the Church request property tax exemption for the withheld parcel? Does each of the remaining church-owned parcels qualify for a property tax exemption?

Administrative Decisions (e.g., WTDs): **None**

Attorney General's Opinions (AGOs): **None**



Other Documents: None

4. Review Recommendation:

- ☒ **Amend**
- ☐ **Repeal** (Appropriate when repeal is not conditioned upon another rule-making action.)
- ☐ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

WACs 458-16-110, 120, 130, 150, and 165 all need to be updated because of legislative changes made to the underlying statutes since the rules were last adopted. The contents of the two property tax bulletins should also be incorporated so that the bulletins may be cancelled.

5. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
_____ 2
_____ 3
_____ 4